

### **REMARKS**

Claims 1-42 are pending in the application. Claims 1, 30, 38, 39, 40, and 42 are currently amended.

#### **Claim Rejections 35 USC 101**

Claims 1 – 42 were rejected for relating to non-statutory subject matter.

Claims 1, 30, 38 and 42 have been amended to define a plurality of computers connected over a network, so that the negotiation is carried out over the network. It is recognized that two computers connected via a network are patentable subject matter and constitute a specific machine as specified for a process claim in the recent Bilsky decision.

Claim 40 has been amended to specify a memory, a data structure on the memory, a processor and two interfaces. These are statutory articles and are not nominal recitations of structure since the negotiation is the *modification of the actual data structure referred to* – see in re Bilsky where a transformation of an article was found to be statutory.

#### **Claim Rejections – 35 USC 102**

The Examiner rejected claims 1 -42 under 35 USC 102(e) as being anticipated by Kennedy et al (US 6,055,519). Applicants respectfully disagree and submit that the Examiner has not provided a *prima facie* case of anticipation since not all of the elements of the claims are shown in the prior art.

Examiner states in his response to arguments that the applicant's arguments are moot in view of the new grounds of rejection.

As argued in the previous response, Kennedy teaches a computer implemented system for *assisting* human or automated planners with negotiation process of sales of goods, see col. 14, lines 34-41:

"The present invention manages the negotiation process and *provides* human and automated planners with *information* necessary to effectively plan and schedule the procuring, manufacturing, transportation, warehousing, and shipping operations necessary to deliver requested items. The basic information provided is the state of the negotiation for each order (e.g. whether the order is Requested, Promised, or Accepted)." (emphasis added)

Kennedy is configured to *support* the negotiation process which is operated *by the users themselves*. Kennedy provides the user with *information* which could be *helpful for planning and tracking the negotiation* but does *not* relate to the user's intentions, objectives and desires *or* generate requests itself, contrary to the clearly expressed requirements of present claim 1.

In contrast, the claims of the present application, as will be described in detail below, refer to the *process of negotiation itself* in terms of the computers *generating or defining requests* based on user's intentions.

It appears that the Examiner construed the term in the preamble "without an intermediary" as somehow negating terms in the body of the claim. This phrase has thus been removed, and it is hoped that the Examiner will be able to fully take into account the positively expressed features of the claims, the more pertinent of these being discussed below.

Claims 1, 30, 38, 40 and 42 are the only independent claims in the application. Applicants will focus their arguments on these claims and submit that the dependent claims are patentable at least by virtue of their patentable parent claims.

Claim 1 recites "generating a merged portion according to said reference to said value in said at least one dispatch, said generating comprising merging at least a

portion of said first user intention and at least a portion of said second user intention". This element is neither taught nor suggested by Kennedy, where the system generates nothing at all.

Examiner points to column 7 lines 1 – 15 and 60 – 65. But this passage never discusses a system that modifies an intention. It only describes notifying the users so that they can manually modify their own intentions. Thus the Examiner is asked to carefully consider the passage in lines 60 – 65 which he cites:

Buyer: "I'd like 10 of part A by Tuesday" (The request).

Seller: "You can have 10 of part A by Thursday" (the promise).

Buyer "I agree to buy 10 of part A by Wednesday (the acceptance which is inconsistent with the promise).

As will be apparent, in the above passage, the merger, if it can be called that, is carried out by *the buyer*. This contradicts the requirement of the claim, which requires such a merger to be carried out by the system.

This underlines the point that the data processor in Kennedy *does not generate intentions*. The requests or promises are generated *by the users* and Kennedy's system merely *receives and passes on* the already generated request. Furthermore, the data processor in Kennedy *could not generate* an intention according to a reference to a value since Kennedy's system *is not aware* of the *desires and objectives* of the seller or buyer but rather relates to the specific request only.

As described for example in col. 9, lines 45-56, Kennedy's system merely adds a bureaucratic flag to a request indicating if an agreement was reached or not. This is *as far as Kennedy goes* with respect to relating to the contents of the requests.

There is no hint in Kennedy for referring to the intentions of the users which formalize their objectives and generating a request accordingly.

The Examiner refers to Col. 7, lines 1-15 and 60-65 in Kennedy as allegedly showing a merged intention. As explained in the previous response Applicants respectfully disagree and submit that the merged intention in this reference is decided by *the user* and not by *the data processor*. This is, as pointed out above, evident from the example of a negotiation in lines 60-65 where the negotiation results in a compromise between the seller and the buyer. The requests in this example are *provided and generated by the users* and it is the *buyer* who eventually comes up with a compromise. *The system of Kennedy does not take part in the substance of the discussions; its function focuses on delivering the requests to the other side only.*

Thus, claim 1 and its dependent claims are believed to be novel and patentable over the cited art.

As an additional point claim 1 recites

“providing a first intention for the first user party and a second intention for a second user party”.

Kennedy fails to provide this feature. Rather in the passages cited by the Examiner he *obtains* a first intention *from* the first user party and a second intention *from* the second user party. Kennedy does not *provide* the intentions, contrary to the requirements of the claim.

A further point is that the claim provides for a method step of altering one of the intentions. The Examiner cites Kennedy column 6 lines 25 to 40. However the Examiner himself admits that this passage teaches that *the buyer* alters the intention. The claim wording excludes the case of the buyer altering the wording since the intention has already been provided.

Likewise stages e) and f) define method steps of comparing the two intentions and determining the relationship *if they coincide - that is, there is a deal that is consistent with the specifications of all parties.*

However, irrespective of the point that the steps are part of the method in the claim and are provided by the users in Kennedy, the additional point applies that in Kennedy the two intentions do not coincide. As clearly shown in the example in column 12 the intention of one of the parties is for Monday and for the other is Thursday. Then one of them modifies his intention to Wednesday. But the modification is not to something that coincides with the intention of the other user. Rather it is something in between.

Thus for each of the reasons given above, claim 1 is believed to be allowable, as it is not anticipated nor rendered obvious by Kennedy.

Claim 30 recites:

"(a) a plurality of user party modules, including at least a first user party module and a second user party module, each user party module featuring a user intention for determining the relationship, said user intentions respectively featuring a plurality of components in common to be determined for the relationship and respective values, such that a process of negotiation by at least one of said first and second user party modules matches said user intention of said first user party module to said user intention of said second user party module to provide a value agreed between users for said plurality of components; and

(b) a central server configured for at least initially connecting at least said first user party module to at least said second user party module for performing said direct negotiations to reach said agreed value, said negotiating comprising generating a common user intention by merging of said respective user party intentions."

(emphasis added)

Claim 30 requires that the negotiation be performed by a group of user party modules, Each module generates a user intention and then the server takes all the intentions and generates a common user intention.

In Kennedy there are no user party modules, or if they are they do not generate user intentions. Rather in Kennedy, as argued in the previous response, the users *enter* their intentions. The Examiner is required to construe the word “generate”, and the word “generate” specifically *excludes* the case of the user entering the intention. As mentioned in the previous response, in Kennedy, the system *receives* the *fully formed requests* from the *users*. There is no question in Kennedy of “generating”.

Thus Kennedy *fails* to teach that the intentions are *generated* at the user modules.

Furthermore the Examiner has not shown a *central server* that forms a *common intention* from the *generated* user intentions. The Examiner points to Col. 3, lines 60-67 in Kennedy and repeats his previous argument that the seller system is equivalent to a central server because the negotiation is stated to be without an intermediary. The reference to “without an intermediary” which caused the difficulty in construing the claim has now been removed, so that while the seller system in Kennedy comprises of a negotiation engine, it is aware only of the intentions of the seller and does not have any knowledge of the buyer's intentions, except for the explicit and fully formed requests received from the buyer. Accordingly, the seller system in Kennedy cannot generate a common user intention by *merging of said respective user party intentions*.

Thus neither the seller client nor the buyer client in Kennedy ever form the unified intent from *generated* intentions of the party. Irrespective of whether there is an intermediary, Kennedy fails to teach anyone providing a unified intention from the generated party intentions.

Accordingly, claim 30 and its dependent claims are new and inventive over the cited art.

Independent claim 38 has been amended to specify in feature a) that the intentions are *generated*. Kennedy merely *receives* intentions from the users.

Kennedy does not teach a *device* which *adds* components to the intention. On the contrary, in Kennedy there are only the original components, and all these are added by the users. Features can be changed, as Monday is changed to Wednesday,

but there is no *adding* of features when intentions are not matched. Thus Monday cannot be changed to Monday and Tuesday, and indeed this would clearly make no sense.

The Examiner has indicated that this feature of adding is found in col. 6 of Kennedy where the buyer re-issues an altered request or the seller provides a new promise. Applicants respectfully submit that the generation of a new request or promise is simply not part of the system of Kennedy. Kennedy's system *receives* the *altered* request and does not *generate* an *additional* component as recited in claim 38.

It is further submitted that Kennedy's system *could not generate* an additional component since in Kennedy the system is aware of the explicit request as issued only and does not have any knowledge of the user's intentions which are not defined in the initial (explicit) request.

Accordingly, claim 38 and its dependent claims are patentable over the cited art.

Claim 40 defines a system for negotiating a relationship between user parties and recites: "(c) a unifier, associated with said negotiation control program, configured to unify said user intentions via said intention data structure via said process of negotiation between users to form a merged user intention within said data structure, said merged user intention unifying said respective first and second intentions, therefrom to define the relationship."

The Examiner states that this feature is found in columns 9-10 in Kennedy. Applicants respectfully disagree. In col. 9-10 Kennedy describes how the requests are stored and tagged in the system. There is no teaching or suggestion of a *unifier* that *forms a merged* user intention contrary to the requirements of claim 40.

It is therefore submitted that claim 40 and its dependent claims are patentable over the cited art.

Claim 42 refers to a method of creating a minimizing goal for a level within a goal program and recites:

- "(a) providing a goal program having a plurality of levels, at least some of said levels comprising constraints;
- (b) identifying constraints within a respective level;
- (c) normalizing each of said identified constraints so as to obtain normalized constraints; and

- (d) combining said normalized constraints to created said minimized goal for said level."

It is noted that 'normalizing' is a concept known in the art in which disparate concepts such as price, date, quality and location are expressed within a unified framework. Colloqually one can thin of it as putting 'oranges and bananas' on an equal footing. This enables for example minimizing goals related to these concepts. As explained below, Kennedy neither mentions explicitly nor implicitly any concept even vaguely related to normalization. Without such normalization he cannot minimize quantities that are not measured in the same units, such as combinations of dates and locations. He cannot even minimize just locations by themselves as locations are non-numeric.

That is to say not only does he not *teach* minimization, without normalization he *cannot* perform minimization. Therefore minimization is not even hinted at.

Kenedy at no point relates to multiple *levels* of decision making, contrary to the requirements of claim 42. At the most he allows one to *queue* a first request while dealing with a second request. There is no indication in the passages quoted of a hierarchy of requests.

Kennedy does not relate to creating a *minimizing* goal for a level within a goal program. As discussed above, Kennedy is concerned with managing the negotiating process and does not take part in the actual negotiation process itself and especially not in forming offers and counter offers. Accordingly, Kennedy does not create a minimizing goal as recited in claim 42.

The Examiner points to Kennedy columns 11 and 12, but the terms "normalize" and "minimize" simply do not appear in this passage. Perhaps the Examiner is considering the term "increments" which appears in column 12 line 16, but this is of no relevance to the claim. The term "maximize" also appears, but this is the opposite of the claimed "minimizing".

More particularly, applicants submit that col. 11-12 of Kennedy specifies something else entirely. Col. 11, lines 16-18: of Kennedy teaches "*Promising policy*" specifies the constraints on offering a Promise for the corresponding Request. The following describes the available promising policies:" Thus, Kennedy indeed has constraints. The constrains of Kennedy can be chosen as one of a given group of constraints.



However the present claim defines that constraints are provided at different levels in a goal program, and at each level the different constraints are minimized.

There is no teaching in Kennedy of identifying a constraint *within a respective level*, nor of *normalizing* anything. Kennedy columns 11 and 12 do not mention normalizing. There is certainly no teaching of normalizing of an *identified constraint*.

It is further noted that there is no possibility in Kennedy of normalization of an identified constraint. This is because the constraint is *one of a predefined listed group*. The constraints are not numerical and therefore cannot *even in principle* be minimized.

In addition, Kennedy does not teach nor suggests combining normalized constraints for creating a minimised goal for a level. This is because the constraints are not organized in levels, the constraints are not numerical and the non-numerical constraints of Kennedy cannot be minimized, even had it occurred to Kennedy to try and do so. In point of fact no such thing occurred to Kennedy, and the passage pointed out by the Examiner, namely columns 11 and 12 of Kennedy, teaches only one feature of claim 42, namely constraints. No other feature of the claim is hinted at or suggested.

In view of the arguments above it is submitted that claims 1, 30, 38, 40 and 42 are patentable over the cited art. The remaining claims mentioned in this section of the Office Action are believed to be allowable as being dependent on an allowable main claim.

All of the matters raised by the Examiner have been dealt with and are believed to have been overcome.

In view of the foregoing, it is respectfully submitted that all the claims now pending in the application are allowable. A Notice of Allowance is therefore respectfully requested.

Respectfully submitted,



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Date: December 29, 2008

**Enclosures:**

- Petition for Extension (One Month)